

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

DAVID CARPENTER, SP 2011-LE-002 Appl. under Sect(s). 8-914 of the Zoning Ordinance to permit reduction to minimum yard requirements based on error in building location to permit accessory storage structure to remain 4.8 ft. from side lot line and 5.1 ft. from rear lot line. Located at 5712 Broadmoor St. on approx. 12,442 sq. ft. of land zoned R-3 (Cluster). Lee District. Tax Map 91-4 ((4)) 631. Mr. Hart moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on March 16, 2011; and

WHEREAS, the Board has made the following findings of fact:

1. The applicant is the owner of the land.
2. The applicant has presented testimony showing compliance with the required standards.
3. Although there has been some replacement of siding or more than that, the shed seems to have been in roughly that location for a long time.
4. From the photographs, it is apparent that there are many similar sheds in the neighborhood in roughly similar configurations on the lots.
5. From the photographs, it appears that at least the next-door neighbor's shed is somewhat closer to the property line than the applicant's.
6. In the photographs, it appears that there may be other sheds that are basically in that same character.
7. It is not believed that allowing the shed to remain is going to have any significant negative impact on anybody.
8. It is not thought that the Board has received any opposition to this.
9. The Board has determined that the other mistake section standards have been satisfied.

THAT the applicant has presented testimony indicating compliance with Sect. 8-006, General Standards for Special Permit Uses, and the additional standards for this use as contained in the Zoning Ordinance. Based on the standards for building in error, the Board has determined:

- A. That the error exceeds ten (10) percent of the measurement involved;
- B. The non-compliance was done in good faith, or through no fault of the property owner, or was the result of an error in the location of the building subsequent to the issuance of a Building Permit, if such was required;
- C. Such reduction will not impair the purpose and intent of this Ordinance;
- D. It will not be detrimental to the use and enjoyment of other property in the immediate vicinity;
- E. It will not create an unsafe condition with respect to both other property and public streets;

- F. To force compliance with the minimum yard requirements would cause unreasonable hardship upon the owner; and
- G. The reduction will not result in an increase in density or floor area ratio from that permitted by the applicable zoning district regulations.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

- 1. That the granting of this special permit will not impair the intent and purpose of the Zoning Ordinance, nor will it be detrimental to the use and enjoyment of other property in the immediate vicinity.
- 2. That the granting of this special permit will not create an unsafe condition with respect to both other properties and public streets and that to force compliance with setback requirements would cause unreasonable hardship upon the owner.

NOW, THEREFORE, BE IT RESOLVED that the subject application is **APPROVED**, with the following development conditions:

- 1. This special permit is approved only for the location of a detached accessory storage structure (frame shed), as shown on the plat prepared by Scartz Surveys dated October 5, 2010, submitted with this application and is not transferable to other land.
- 2. All applicable permits and final inspections shall be obtained for the garage enclosure and sunroom enclosure within 180 days of approval of this special permit.

This approval, contingent upon the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations or adopted standards.

Mr. Hammack seconded the motion, which carried by a vote of 6-0. Mr. Byers was absent from the meeting.